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LeBrun: Health Department's Zucker in hotseat

DOH handling of Hoosick Falls PFOA crisis leaves mess for Gov. Cuomo

Fred LeBrun | September 10, 2016

Last week's joint legislative hearing in Albany on the Hoosick Falls water crisis and the state's faulty response was a giant leap forward in getting it right.

A country mile from the state Senate hearing the week before in Hoosick Falls, when state Health Department Commissioner Dr. Howard Zucker was allowed to babble at will in his agency's defense, and complimented for it. A "fact-finding" hearing that gave tripe a bad name.

Not this time. Thirteen hours of testimony from a wide range of experts and questioning from nearly three dozen legislators gave the issue a fair hearing and ultimately a resounding thumbs down for the state DOH. Led by the Assembly, questions were sharp and the range of observations by the questioners not at all flattering to Zucker, who led off the marathon of testimony, or to his health department. It was appropriately a bipartisan roast.

All the witnesses, including Zucker, were sworn in with a simple, "Do you swear to tell the truth?" But not the whole truth, and nothing but the truth, as we subsequently learned.

There is a Grand Canyon between a deliberate lie and the whole truth — coming clean — and Dr. Zucker showed us over and over for nearly five hours that he could sit comfortably at the bottom of that canyon, wrapped in implausible deniability. He answered questions that weren't asked, and didn't answer those that were. He went off on tangents. He gave irrelevant material to relevant inquiries. In short, he practiced classic evasion.

While the closest Zucker came to admitting any state culpability was by

begrudgingly allowing that a key DOH advisory to residents related to consequences of drinking the PFOA-contaminated water could have been better written, he revealed himself to one and all anyway. It wasn't pretty.

Zucker, remember, is both a lawyer and a doctor. So there he was, on the hot seat over the most serious public credibility crisis the state DOH has faced in memory. And which hat did he choose to wear? Right. The black one.

The problem is Zucker is not of counsel to some shyster law firm trying to slime out of a tight hole. He's the state's emblematic first doctor, constitutionally in charge of our public health, which he is supposed to guard with an abundance of caution. Not a profusion of risk, as he implicitly and repeatedly defended. What Zucker showed us is something's gone dreadfully wrong with the moral compass at our state health department.

At this juncture, the governor's office understandably has to be running every aspect of the damage control Zucker's DOH has brought to Cuomo's doorstep. With another hearing on Monday on Long Island, and yet another Assembly hearing after that because the DOH failed to deliver requested materials in a timely fashion, this ongoing PR nightmare is the last thing the administration needs as it girds for doomsday with federal prosecutor Preet Bharara.

I have a hunch that early on the Cuomo crowd took the advice on how to proceed from the top echelon of the DOH, and now they're stuck with a really stupid situation that is embarrassing the governor. It could so easily have been avoided by admitting they had inadvertently misinformed the residents of Hoosick Falls. A simple apology. An appropriate act of contrition, and by now it would be a paragraph in an old story instead of negative headlines in the New York Times.

It's never a good plan to embarrass the governor, especially when he's your boss.

Not to sound too much like Max Von Sydow in "Three Days of the Condor" instructing Robert Redford on how the end will come, but Zucker, it will be when you least expect it, someone you trust ... a two paragraph press release at 5 p.m. on a Friday announcing you've accepted an opportunity of a lifetime to study the brown snake epidemic in Guam.

During the hearing we heard that the EPA had nominated the Saint-Gobain site for federal superfund status, big news. That means federal resources, engineers, scientists, an entirely different culture from our state DOH, will descend on the site. Plus EPA lawyers will engage the polluters, Saint-Gobain, and others, to pay for every dime.

The most revealing testimony came from Dr. Howard Freed, former head of the state DOH's Center for Environmental Health. Because what he told us goes to the heart of the most puzzling aspect of Zucker's defense of the indefensible. Namely, why is he doing this? To what end?

It seems it's not just about the DOH's actual dicey handling of this particular situation, so much as it is a broader and deeper defense of the existing DOH culture, of how they do business. Described by Freed as while not outright lying to the public, "the DOH has a troubling tendency to downplay potential health risks from toxic contaminants ... a pattern of behavior doomed to fail the people of New York."

Sounds familiar.

So what Zucker is fighting for is to preserve the status quo for his agency, and his job. Considering the disaster it's brought the administration, I wouldn't bet on it, doc.

The central question that leaves us is if Zucker and the DOH continue to refuse to admit their mistakes, or even the possibility they could be mistakes, what confidence can we have they'll do any better in the future?